APPENDIX A

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

Civil Action No. 1251-66

EUGENE X. MURPHY and REX K. NELSON, *Plaintiffs*

v.

HENRY G. BARTSCH,
and
LEGAL INTEGRITY PRESERVATION SOCIETY, INC.,
MARY V. BOWES, *Defendants*

[Filed May 5, 1967]

Opinion

The plaintiffs in this case are seeking declaratory relief to remove a cloud on title to improved property located at 126 C Street, N. W., Washington, D. C. (Lot 19 in Square 574).

The plaintiffs claim legal title by reason of a conveyance from Mary V. Bowes, who in turn was the holder of an unrecorded warranty deed which she received from the defendant Henry Bartsch in 1950.

The defendant Legal Integrity Preservation Society (hereinafter called "LIPS") seeks to impress a constructive trust on the property by reason of contributions allegedly made by various persons on behalf of LIPS to service the debt, taxes and other expenses pertaining to the property.

Mary V. Bowes was joined as a nominal party defendant.

Findings of Fact

From a welter of confusing and often contradictory evidence the Court culls these findings of fact:

1. Prior to May 1950, Henry G. Bartsch, then married to Elsa N. Bartsch, was the owner of the improved prop-

erty at 126 C Street, N. W., Washington, D. C. (hereinafter "the property") which is involved in this action.

2. By warranty deed dated May 31, 1950 Bartsch conveyed all his right, title and interest in the property to the defendant Mary V. Bowes, *femme sole*. The consideration paid by Mary Bowes was some cash, the assumption of the then outstanding mortgage, the undertaking to clear up tax arrearages, and the forgiveness by her of certain debts then owing to her by Bartsch.

3. At the time of the conveyance to Mary Bowes, Bartsch and his wife Elsa were estranged and Elsa accordingly did not join in the conveyance to Mary Bowes. When recording was attempted it was refused because of the outstanding unrelinquished dower rights of Elsa Bartsch. These rights were subsequently extinguished by a final divorce, but the deed was nevertheless never recorded.

4. When Bartsch conveyed to Mary Bowes in 1950, the indebtedness, evidenced by a note secured by deed of trust, ran to the Associated Sulpicians of the United States. Although Mary Bowes claimed that she made, or caused to be made, all payments necessary to service the debt and taxes, there is evidence that Wilma Miller and Signe Bartsch (mother of the defendant Bartsch) may also have contributed to the support of the property at various times in the period between 1951 and 1963. The exact amount of any payments that may have been made by Wilma Miller or Signe Bartsch was not conclusively established, nor was it made clear why they contributed, if they did. It did appear that within such period and during her lifetime Signe Bartsch lived, substantially rent free, in the Bowes' home.

5. During the period 1951-1963 the history of the property is one of continuous trouble. There were repeated threats of foreclosure by the trustees under the deed of the trust; the taxes were generally in arrears, and the

property was not maintained properly. It was during this period that Wilma Miller claims to have made payments for the benefit of LIPS since according to her testimony the property was intended by Bartsch and her to become the permanent home of LIPS at some undetermined future date.

6. In June, 1963 Bartsch, as the record owner of the property, was named as a defendant in a criminal prosecution for violations of the D.C. Housing Code at the property. Bartsch thereupon filed a sworn complaint in this U.S. District Court (Civil Action No. 1639-63) alleging that Mary V. Bowes was the true owner of the property by reason of the conveyance to her in 1950 (Finding 2, *supra*) and asking for a declaration by the Court to that effect. While the District Court suit was pending Bartsch was convicted July 23, 1963 in the Court of General Sessions for the housing violations. He appealed and on January 8, 1964 his conviction was reversed and the case remanded for retrial. On February 20, 1964 he was retired and his warranty deed of May 31, 1950 conveying the property to Mary V. Bowes was admitted into evidence as proof that he was not the owner. The deed at this time was in the custodial possession of the plaintiff Nelson and was turned over by Nelson to Bartsch for purposes of the trial. Bartsch was acquitted of the housing violations. Subsequently Mary Bowes was charged with the same housing violations at the property and convicted as the owner thereof. This conviction was not appealed.

7. After the Bartsch acquittal and on February 20, 1964 Mary Bowes, at the suggestion of Bartsch, executed in favor of one Jacob Wall, a one-year option to purchase the property for $20,000. The option was written in longhand by Bartsch. It was also witnessed by Bartsch. The agreement provided that if Wall failed to exercise the option, Mary Bowes would reimburse Wall for "all such sums as he has and does pay on said first trust and on

taxes and assessments."[1] At or about the time the option was executed Bartsch also delivered into the custody of Wall the warranty deed of May 1950 running from Bartsch to Mrs. Bowes. This deed was never returned to Mary Bowes.

8. On April 13, 1964 Theodore Popowsky and his wife Mary Anne, acting at the behest of the said Jacob Wall, paid off the balance of the trust note owing to the Sulpicians and succeeded as creditors. The then principal and then interest on the note amounted to $1,593.89, and the accrued taxes were $497.06—total $2,090.95.

9. Wall died testate in October 1965 without having exercised his option to purchase the property. By his will dated May 5, 1965 (some two months after the expiration of the option) Wall devised to Bartsch "from my interest or the proceeds of my interest in the premises known as 126 C Street, N.W., Washington, D.C. the sum of $5,000.00."

10. The estate of Jacob Wall has asserted no claim either against the property or against Mary Bowes personally in connection with this "interest."

11. April 12, 1966 the plaintiffs Eugene X. Murphy and Rex K. Nelson entered into a written agreement with Mary Bowes to purchase the property. They deposited $500 on the purchase price of $21,500.

12. Nelson informed Bartsch of the contract to purchase the property. Therefore Bartsch hastened to execute a quitclaim deed bearing date of April 28, 1966 conveying all interest possessed by him in the property to LIPS. This deed was recorded April 29, 1966. The interest which

---

[1] It is alleged that Wall made repairs to the property and advanced certain monies, but the only clear evidence as to Wall's contribution to the property is a receipt issued to him for $359 dated August 20, 1963 from one of the trustees on the original note (Defendant's Exhibit 15(a)).

Bartsch purported to quitclaim to LIPS was the interest which he had received by way of devise from Wall. (Finding 9, *supra*).

13. June 28, 1966 Mary Bowes executed a warranty deed conveying the property to the plaintiffs Murphy and Nelson.

14. The plaintiffs have been refused recognition as owners of the property by reason of a lack of continuity of title from the last record owner, Henry G. Bartsch, as shown by the records of the Recorder of Deeds for the District of Columbia. They accordingly instituted this suit to have the quitclaim deed executed by Henry Bartsch set aside, to quiet title, and for injunctive relief against further conveyances affecting any right title and interest in the property by the defendants.

15. September 15, 1966, after commencement of this action, Wilma Miller purchased the outstanding note on the premises from the Popowsky's allegedly paying $2,500 therefor. Wilma Miller now claims that the purchase of the note was made on behalf of LIPS.

16. The Legal Integrity Preservation Society (LIPS) was incorporated in 1951 pursuant to Title 29, Chapter 6, D.C. Code (1940) as a non-profit charitable organization.

From the time of its incorporation LIPS has not been operative in any discernible manner. There have been no regular business meetings. The corporation maintains no office. The corporation has no bank account. The corporation has no records. Although Bartsch, its president, claims that it has rendered aid to three persons—an unidentified cab driver, Jacob Wall, and Mary Bowes—his allegations are so vague as not to convey any sense of doing business. For all practical purposes the corporation would appear to be nothing more or less than the alter ego of Henry G. Bartsch, used from time to time for his personal undertakings.

Although there are no records to reflect election of officers, according to Bartsch the officers are: Henry Bartsch, President, and Wilma Miller, Secretary and Treasurer.

Discussion

The defendant Bartsch on behalf of LIPS asserts a constructive trust against the property on two grounds:

(a) First, he asserts that Wall contributed monies to the support of the property thereby securing an interest therein; that Wall conveyed that interest to him; and he in turn quitclaimed it to LIPS.

(b) Secondly, he claims that the direct payments made by his deceased mother, Signe Bartsch, and Wilma Miller to the upkeep of the property were made for the benefit of LIPS and LIPS thereupon became entitled to an equitable interest in the property.

A constructive trust is imposed not because of the intention of the parties but because a person holding title to property would profit by a wrong, or would be unjustly enriched if that person was permitted to retain the property.[2] Generally a constructive trust is impressed in situations where the court finds that a person has title to real or personal property, originally acquired by wrongdoing or in a situation where property is innocently obtained but is held under such circumstances that retention of the title will result in unjust enrichment.[3] In these situations the courts will sometimes impress a trust to remedy the wrong.

It cannot be asserted in the present case that Mary Bowes obtained the property wrongfully. When she pur-

---

[2] Restatement of the Law of Trusts, Vol. 2, p. 1249; Restatement of the Law of Restitution, § 160, p. 640.

[3] Bogert, Law of Trusts, p. 208 4th ed.; *Beatty* v. *Guggenheim Exploration Co.*, 225 N.Y. 380, 122 N.E. 378 (1919); Cardozo, J. "A constructive trust is the formula through which the conscience of equity finds expression."

chased it in 1950 and secured her warranty deed from Bartsch, she paid good consideration for it. (Finding No. 2). So, if any trust is to be impressed on the property it must be because the retention of the property or the proceeds therefrom by Mary Bowes would be detrimental to LIPS by reason of the contributions allegedly made toward the support of the property on behalf of LIPS.

We look at the LIPS claims in the order set forth above.

A. Interest Allegedly Derived From Wall

Obviously when Bartsch quitclaimed to LIPS on April 28, 1966 he could only convey whatever title or interest he might have acquired through Wall's will. But on the state of the record there is no apparent interest in the property which Wall could have devised to Bartsch. The only interest Wall ever had in this property was the right to purchase it pursuant to the option contract which had been given to him by Mary Bowes under date of February 20. That option contract specifically provided that were it not exercised within its term, it would fail, and the only interest that Wall would thereupon have would be a right to reimbursement from Mary Bowes personally for any sums that might have been expended by Wall to preserve the property or service the debt. As noted in the Findings of Fact there is some very real question whether any money was advanced by Wall. But assuming *arguendo* that Wall did make advances for the benefit of the property, any claim he might have had was, by the terms of the option agreement, converted to a personal claim against Mary Bowes for reimbursement—it is not a claim against the property. A person claiming a constructive trust must have some equity in the alleged trust property and not merely a money claim against an individual holding title to property.[4]

---

[4] *Carrow* v. *Weston*, 247 N.C. 735, 102 S.E. 2d 134 (1958); *Skemp* v. *Olansky*, 249 Iowa 1, 85 N.W. 2d 580 (1957).

Under the circumstances we conclude that Wall held no interest in the property which he could devise to Bartsch and that Bartsch accordingly had no interest which he could quitclaim to LIPS.

B. Interest Derived From Mrs. Signe Bartsch and Mrs. Wilma Miller

The second claim to a constructively impressed trust is based upon the assertion that payments made toward the property by Signe Bartsch and Wilma Miller were for the benefit of LIPS.

The testimony concerning the payments is vague. But assuming some payments were made by Signe Bartsch and Wilma Miller towards the upkeep of the property, there is no evidence credible to this Court that any such payments were made at the behest of LIPS or for the benefit of LIPS, or with the intention of creating any recognizable interest in LIPS. Signe Bartsch is dead, so we will never know what she really did or what her intentions were. And the Court finds it incredible that Wilma Miller, a successful court and hearing reporter, versed in the ways of business, would be contributing for the benefit of a dormant organization such as LIPS with no legal protection of any kind whatsoever. The only reasonable conclusion at which this Court can arrive and which does in large part dovetail with the Bowes testimony, is that whatever payments, if any, were made by Wilma Miller and Signe Bartsch were advances for her personal account for which she may owe them reimbursement.

Due to the strong policy of the law in favor of security of title in land the courts generally are reluctant to disturb ownership by such devices as constructive trusts and require clear and convincing evidence to support such a remedy.[5] In the present case the evidence is neither clear

---

[5] *Elmer Co.* v. *Kemp*, 67 F. 2d 948 (9th Cir. 1933); *Leake* v. *Garrett*, 667 Ark. 415, 268 S.W. 608 (1925); *Hughes* v. *Helzer*, 182 Or. 205, 185 P. 2d 537 (1947).

nor convincing. Merely making some contributions toward payment of the deed of trust note is not in and of itself a sufficient basis for impressing a trust.

LIPS relies heavily on the case of *Doing* v. *Riley*[6] to demonstrate a situation where payments made to service a debt served as a basis to raise a constructive trust on property. However, more than mere payments or contributions were involved in the facts of that case. There the Court specifically found a joint venture between a husband and wife entered into to acquire property, construct and furnish a hotel, and towards which the parties contributed their separate funds. It was beyond dispute that except for the contributions made to prevent foreclosure, the joint venture could not have succeeded. In the instant case the Court is not convinced of such clear equities.

Conclusions of Law

The Court concludes as a matter of law:

(1) That Mary Bowes derived good title by warranty deed from Henry G. Bartsch.

(2) That notwithstanding the failure to record such title, Mary Bowes legally could convey her interest in the property to Rex Nelson and Eugene Murphy.

(3) That the defendants Bartsch and LIPS have failed to establish any claim which would cloud the title to the property.

(4) The plaintiffs are accordingly entitled to the declaratory and injunctive relief requested in order to perfect title to the property.

Counsel for the plaintiffs will submit an appropriate order consistent with these findings and conclusions.

/s/ H. F. Corcoran
Judge

Dated: May 5, 1967.

---

[6] 176 F. 2d 449 (5th Cir. 1949).

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

Civil Action No. 1251-66

EUGENE X. MURPHY, ET AL., *Plaintiffs*

v.

HENRY G. BARTSCH, ET AL., *Defendants*

[Filed May 12, 1967]

Order Removing Cloud on Title to Real Estate and Perfecting Title in Plaintiffs

This cause having come on for hearing on the merits of the complaint filed by the plaintiffs, and upon consideration of said complaint and all the competent evidence adduced at the trial, and the Court having made findings of facts and conclusions of law, reference to which is hereby made, it is, by the Court, this 12 day of May 1967,

ORDERED, ADJUDGED and DECREED, that the title to that certain piece or parcel of land, together with improvements thereon, situate in the District of Columbia, known as Lot 19 in Square 574, improved by premises No. 126 C Street, N.W., be and the same is vested in the plaintiffs, Eugene X. Murphy and Rex K. Nelson, by virtue of that certain Deed from Mary Bowes, dated June 28, 1966 and recorded among the Land Records of the District of Columbia in Liber 12632 at folio 113, and that said Deed conveyed a good and indefeasible fee simple title to said real estate to said plaintiffs, Eugene X. Murphy and Rex K. Nelson, expunging the alleged interests of the defendants and all persons claiming any right, title or interest in said real estate by or through the defendants, or any of them, and it is further,

ORDERED, ADJUDGED and DECREED, that the certain quit-claim Deed executed by Henry G. Bartsch, dated April 28, 1966 and recorded among the Land Records of the District

of Columbia in Liber 12602 at folio 446, be and the same is hereby expunged from the record and declared null and void.

The plaintiffs are awarded their costs of this suit.

/s/ H. F. Corcoran
Judge

[Certificate of Service dated May 11, 1967.]

APPENDIX B

[Filed July 3, 1968]

UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT
SEPTEMBER TERM, 1967

Civil 1251-66

No. 20995

Henry G. Bartsch, *Appellant*,

v.

Eugene X. Murphy and Rex K. Nelson, and
Mary V. Bowes, *Appellees*.

No. 21,093

Legal Integrity Preservation Society, *Appellant*,

v.

Eugene X. Murphy and Rex K. Nelson, et al., *Appellees*.

Appeals from the United States District Court for the District of Columbia

Before: Bazelon, Chief Judge, Fahy, Senior Circuit Judge, and Wright, Circuit Judge.

Judgment

These causes came on to be heard on the record on appeals from the United States District Court for the District of Columbia and were argued by appellant *pro se* and appellee, Nelson, *pro se* and for appellee Murphy in No. 20,995, and by counsel for appellant and appellee, Nelson, *pro se* and for appellee Murphy in No. 21,093.

On Consideration Thereof; it is ordered and adjudged by this Court that the judgment of the District Court appealed from is affirmed in case No. 20,995, and

It is further ordered and adjudged by this Court that the appeal in case No. 21,093 is dismissed.

Per Curiam

Dated: July 3, 1968

[Not to be printed or submitted to West for publication]

[Filed July 3, 1968]

UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT

No. 20995

HENRY G. BARTSCH, *Appellant,*

v.

EUGENE X. MURPHY and REX K. NELSON, and MARY V. BOWES, *Appellees.*

No. 21,093

LEGAL INTEGRITY PRESERVATION SOCIETY, *Appellant,*

v.

EUGENE X. MURPHY and REX K. NELSON, ET AL., *Appellees.*

Appeals from the United States District Court for the District of Columbia

Decided July 3, 1968

Mr. Henry G. Bartsch, appellant pro se in No. 20,995.

Mr. R. Kenneth Mundy for appellant in No. 21,093.

Mr. Rex K. Nelson, appellee pro se and for appellee Murphy.

Mr. Michael Ritz, Jr. entered an appearance for appellee Bowes.

Before BAZELON, *Chief Judge,* FAHY, *Senior Circuit Judge* and WRIGHT, *Circuit Judge.*

PER CURIAM: These appeals are from a declaratory judgment removing a cloud on title to real property in the District of Columbia. Appellants urge that they acquired

interests in the property under the will of a deceased optionholder and by virtue of contributions to prevent foreclosure. These theories were explored at great labor by the District Judge, who declined to decree a constructive trust. His findings of fact are not clearly erroneous. They amply support his conclusions. We therefore find no error affecting substantial rights of any of the parties.

No. 21,093 is *dismissed.*
No. 20,995 is *affirmed.*

APPENDIX C

IN THE
UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT

No. 20,995

HENRY G. BARTSCH, *Appellant,*

v.

EUGENE X. MURPHY and REX K. NELSON; *Appellees,*
MARY V. BOWES, *Intervenor.*

No. 21,093

LEGAL INTEGRITY PRESERVATION SOCIETY, INC., *Appellant,*

v.

EUGENE X. MURPHY and REX K. NELSON, *Appellees,*
MARY V. BOWES, *Intervenor.*

PETITION FOR REHEARING ON PER CURIAM ORDER OF JULY 3, 1968

The Legal Integrity Preservation Society, Inc., by its counsel, and Henry G. Bartsch, pro se, respectfully solicit reconsideration and supplementation or modification of the

per curiam Order of July 3, 1968 herein dismissing the Appeal of the Legal Integrity Preservation Society, Inc. and affirming the appealed judgment of the District Court against the appellant, Henry G. Bartsch.

Specifically, your petitioners pray that the United States Court of Appeals for the District of Columbia Circuit rehear and expressly rule upon the *challenged standing* of the appellee-plaintiffs Rex K. Nelson and Eugene X. Murphy to have brought and maintained the suit below in Equity and to have sustained the judgment entered May 12, 1967 with costs against the appellant defendants Henry G. Bartsch and the Legal Integrity Preservation Society, Inc.

Your petitioners believe the rule of law for this jurisdiction to be that

(284) "We must regard an agreement by any attorney to undertake the conduct of a litigation on his own account, to pay the costs and expenses and to receive as his compensation a portion of the proceeds of the (xxx) thing in dispute as obnoxious to the law against champerty".

Peck v. *Heurich,* 6 App. D.C. 273, *284* affirmed 167 U.S. 624

There, as in the case here at bar:

(284) "The very thing in dispute was conveyed or sought to be conveyed in advance to the attorney to conduct the litigation on his own account and at his own cost and expense."

The record in this cause shows the standing of the plaintiffs to have been challenged in the defendants' Answers (JA 17, 19) to the Complaint; renewed and explained in detail at Pretrial (JA 24); formally moved at Trial (JA 49, 50, 114) and specifically re-presented for this Court's determination on appeal (Appellant's Brief pp.

(i) 8, 9, 10, 11, 12, 15). The per curiam Order of July 3, 1968 neither rules upon the issue of appellee-plaintiffs standing to sue and sustain the District Court's judgment, nor does it offer any explanation for the absence of such ruling therein.

If the omission was an unintentional oversight, petitioners respectfully ask that the July 3, 1968 Order be amended.

If the Court regarded the question of standing to be immaterial or irrelevant, petitioners respectfully ask that the July 3, 1968 Order be amended to so state.

If the Court concluded that the petitioners, for procedural or any other reason, were without right to raise the question of standing, the petitioners respectfully ask that it be so stated in a new Final Order in this Appeal.

If the Court regards the rule in *Peck* v. *Heurich* to be inapplicable to the facts and issues of the case at bar, the petitioners respectfully ask that the rationale of that conclusion be set out.

If the Court, for reasons of public policy, intended simply to abrogate Rule of Champerty in this jurisdiction by ignoring the question, your petitioners need, and are entitled, to be so informed.

The matter is of substantial concern to the appellants and it is of unquestionable interest to the Legal Profession in its service and relation to the Public. Your petitioners deem the matter to be of sufficient importance to merit formal application for a Writ of Certiorari to the Supreme Court of the United States. Without more information than can be gleaned from the per curiam Order of July 3, 1968, your petitioners stand critically handicapped and precluded from succinct presentation of the case in conformity with the rules and practice in the Supreme Court.

In connection with this petition, the Court should especially note:—

1. On September 3, 1965, Bowes' attorney Ritz accepted $2,000 from Wall's attorney, Jack Olender, as consideration for "getting the contract pursuant to the option". Settlement was to be held in 60 days from September 3, 1965. "The contracting purchasers were Mark Mobile Homes, Inc. and John A. Klingerman." They were represented as straw parties for Jacob Wall. (JA 23, 51-52)

2. Jacob Wall died testate on October 1, 1965, devising and bequeathing $5,000 of his interest (*his entire investment*) in 126 C Street to Bartsch. Bartsch testified that Wall's intent was to vest this interest in Bartsch as trustee of the Legal Integrity Preservation Society, Inc., which Society was agreed by its directors to be renamed the Wall Foundation. (JA 193, 194)

3. Ritz, Murphy and Nelson have sought to make their entire case upon the disclaimer suit filed by Henry Bartsch (CA 1639-63). (JA 9-14). The option agreement between Jacob Wall and Mary V. Bowes and her coincident surrender to Wall of the unrecorded 1950 deed took place on *February 20, 1964, a month after* the District Court's voluntary dismissal of that suit and the counterclaim filed therein by Murphy and Nelson as Bowes' attorneys seeking *the same declaratory judgment in Bowes' name as they* demanded in Civil Action No. 1251-66 as *plaintiffs pro se.*

4. The Court should recognize that nothing in the earlier suit (CA 1639-63) works any estoppel vs. legal or equitable rights of Bartsch accruing *after* January 20, 1964, nor against Jacob Wall, nor the Legal Integrity Preservation Society, nor the noteholder secured by the First Deed of Trust of record.

Likewise, the Court should note that not only has Bowes failed to repay Wall or his Estate as provided in the "option" agreement of February 20, 1964, she has not

paid one cent on the First Trust indebtedness, taxes and repairs of 126 C Street from February 20, 1965 up to the time of this litigation, and she contends she owes no one anything.

5. Ritz was well informed of Wall's death; was well informed of the provision for Bartsch in the Wall will filed for probate in Administration No. 116909; and of the fact that an Administrator CTA had not been appointed. Ritz knew that under equitable principles, the last date for performance of the September 3, 1965 contract (which had more than a month to run when Wall died) should have been tolled until the Wall estate had a Court appointed Administrator CTA with authority to perform the contract.

Instead, Ritz worked up a plan with Murphy and Nelson to *re-sue Bartsch* and he obtained their agreement to do so at their expense. (Letter of April 22, 1966 of Ritz to Mattingly judicially noticed by the Court as genuine in denial of Motion to Advance entered March 5, 1968; and p. 2 of "Contract" placed in the record as Plaintiffs' Exhibit # 1 pursuant to Court Order of April 19, 1968.)

Nelson testified on oath at Trial, April 11, 1967 (JA 254) that he did not threaten to sue Bartsch on April 27, 1966; that he had no reason to sue him. (JA 254) Ritz and Murphy, members of the bar of the District of Columbia were present. By their silence as Officers of the Court, they sanctioned and corroborated this testimony. The Court cannot in self-respect overlook that neither Nelson, Murphy nor Ritz can deny that Nelson and Murphy *were under agreement (as the sole actual consideration for the Contract of April 22, 1966)* to "establish title by litigation against the record owner." (Bartsch)! Not one cent was received from Murphy and Nelson until Ritz in person took a Murphy and Nelson law firm check to their bank and "cashed" it (Plaintiffs' Exhibit # 5) on *June 28,*

1968, more than six weeks *after* the suit at Bar had been filed for Declaratory Judgment against Bartsch.

6. Under all the circumstances of this case, for Bartsch to have yielded to the strategy of Murphy and Nelson without protecting the interest of the Legal Integrity Preservation Society, Inc., would have been a breach of his trust as an officer of that Society.

Should the District Court or the U.S. Court of Appeals for the District of Columbia Circuit be of the opinion that in today's moral and professional climate the Rule of Champerty of Peck v. Heurich is mature for abrogation, certainly the judicially noticeable conduct of the attorneys Ritz, Murphy and Nelson in this cause hardly qualifies *this case* as the vehicle for such a change in the law of the District of Columbia.

Respectfully submitted,

R. KENNETH MUNDY
Solar Building
1000 - 16th Street, N. W.
Washington, D. C. 20036
Attorney for Legal Integrity Preservation Society, Inc.

HENRY G. BARTSCH
508 F Street, N. W.
Washington, D. C. 20001
Pro Se

CERTIFICATE

This petition is presented under the authority of Rule 26 of this Court. It is made in good faith and not for delay.

R. KENNETH MUNDY

CERTIFICATE OF SERVICE

A copy of the foregoing petition was served this 18th day of July, 1968 upon Counsel for the Appellees and the Intervenor Bowes.

HENRY G. BARTSCH

APPENDIX D

[Filed August 5, 1968]

UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT
SEPTEMBER TERM, 1967

Civil 1251-66

No. 20995

HENRY G. BARTSCH, *Appellant*,

v.

EUGENE X. MURPHY and REX K. NELSON, and
MARY V. BOWES, *Appellees*.

No. 21,093

LEGAL INTEGRITY PRESERVATION SOCIETY, *Appellant*,

v.

EUGENE X. MURPHY and REX K. NELSON, ET AL., *Appellees*.

Before: Bazelon, Chief Judge; Fahy, Senior Circuit Judge; Wright, Circuit Judge, in Chambers.

Order

On consideration of appellant's petition for rehearing, it is

ORDERED by the Court that appellant's aforesaid petition is denied.

Per Curiam.